

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
JAVIER GUERRERO,

Plaintiff,

-against-

GEORGE STOUPAS,

Defendant.
----- X

VITALIANO, D.J.

FILED
IN CLERKS OFFICE
US DISTRICT COURT E.D.N.Y.
★ FEB 04 2019 ★

BROOKLYN OFFICE
NOT FOR PUBLICATION
MEMORANDUM & ORDER
18-CV-3285 (ENV)(RML)

Pro se plaintiff Javier Guerrero, currently incarcerated at the D. Ray James Correctional Facility in Folkston, Georgia, filed the instant action against George Stoupas on June 1, 2018, and moved to proceed *in forma pauperis*. The Court granted the motion and ordered Guerrero to show cause why the action should not be dismissed for lack of subject matter jurisdiction. *See* Dec. 6, 2018 Mem. & Order, Dkt. 13. Specifically, Guerrero was directed to provide a sworn declaration affirming facts that support his allegation of the parties' diversity of citizenship. *Id.* at 5. Guerrero subsequently filed a sworn statement affirming that he is a citizen of Paraguay, along with an Immigration Detainer from the Department of Homeland Security corroborating his Paraguayan citizenship and indicating that he is an alien subject to removal from the United States. *See* Dec. 20, 2018 Letter, Dkt. 14. Notwithstanding the Court's instructions, Guerrero again failed to state the citizenship of defendant Stoupas.

In accordance with the solicitude afforded *pro se* plaintiffs, Guerrero is granted a final opportunity to show cause why the complaint should not be dismissed. Within 30 days of the entry of this Order on the docket, Guerrero must file a sworn declaration stating Stoupas's citizenship and provide an address where Stoupas may be served.

If Guerrero fails to respond within the time allowed or show good cause why he cannot

comply, judgment will enter dismissing the action without prejudice for lack of subject matter jurisdiction. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to mail a copy of this Order to plaintiff.

So Ordered.

Dated: Brooklyn, New York

February 1, 2019

/s/ USDJ ERIC N. VITALIANO

ERIC N. VITALIANO

United States District Judge